

A
 REVIEW
 OF THE
 STATE
 OF THE
 BRITISH NATION.

Thursday, May 19. 1709.

I Am now come to my second Enquiry, in order to argue our publick Peace, *Viz.*

Of what Concern the crushing Jacobitism is to the securing the Peace of Britain?

If I thought this would admit of any Debate, I could illustrate the Argument by a particular Enquiry into Fact, and so go back to the History of *Jacobitism* in this Island, and recite all their several Attempts to overthrow our present Establishment, their Plots and Contrivance to divide us at home, and invade us from abroad, beginning at the Revolution, and bringing it down to this Day; but sure it cannot be deny'd, nay, an honest profess'd *Jacobite* will not

pretend to deny.—But that *Jacobitism* and Revolution-Principles are diametrically opposite—That 'tis the Nature and Constitution of the one to destroy and suppress the other; and when a *Jacobite* ceases to wish, desire, or contrive and attempt the Destruction and Overturning the present Settlement, he ceases to be a *Jacobite*; on the other hand, he that ceases by all his possible legal Endeavour to establish and build up the Constitution of *Britain*, as now settled upon the Queen and Protestant Religion, of which Building the Revolution is the Foundation, from that Moment he ceases to be a Revolution-Man, and commences *Jacobite*.

And this brings me by a natural Consequence to give my Thoughts concerning a
 much

much debated Point, which lies now much upon the Thoughts of our Politicians in this Nation, I mean the Treason-Bill.

I know, it is a nice Article, and requires to be handled with some Caution; I know, some People esteem it a Hardship upon our Brethren in Scotland, and are very angry, that we should press an Act so warmly against the united Sense of all the Scots Members here, which, they say, is an Evidence of their having too much lower'd their Representative, and shall be always overpowered by Voices, when their Country Interest interferes with ours.

I am sure, I shall be the last Man in England that shall speak, write, or so much as think for, or in Defence of the least Encroachment to be made upon Scotland in any thing—And not only so, but I shall always be the first Man, that should such Encroachments be made or attempted to be made, shall openly disavow, condemn, and explode it, be it made or attempted by Princes, Parties, Governments, People or Parliaments; for no Man, or Body of Men can be too great or too powerful for an English Man to speak Truth to.

But give me leave, Gentlemen, on the other hand to expostulate as modestly as I can with you on this Affair, I mean, the making the Laws of Treason the same in both Parts of Britain.

That the Act of Union leaves the Parliament of Britain at Liberty to do this, I think, no Man can debate, and therefore I believe, I need not examine, whether it be a Contravention of the Articles—For I shall always lay it down as a Fundamental Article in all my Discourses, at least in my Opinion, That the Union is an original Supreme to Parliamentary Authority, *Qua British*, and that being the Power constituting the Parliament, it cannot be invaded, alter'd, or any Part of it made void, without that Parliament being *Felo de se*, and destroying its own Being; and this Opinion I never yet saw confuted.

Now by the Act of Union, the Laws of publick Justice are particularly subjected to the Alteration of the Parliament of Great Britain with this Restriction only, that it be for evident Utility, of which the Parlia-

ment is without doubt left judge; and for this I shall quote you the Articles without any other Comment—As follows,

Article XIX. Fol. 6.

And that the Court of Justiciary do also after the Union, and notwithstanding thereof, remain in all Time coming within Scotland, as it is now constituted by the Laws of that Kingdom, and with the same Authority and Privileges as before the Union, subject nevertheless to such Regulations, as shall be made by the Parliament of Great Britain.

Here is first the Court settled, wherein Treason is to be try'd; this Part of it cannot be alter'd, nor not by Parliament—Nor is it, I think, any Presumption in me to say, the Parliament of Britain CAN NOT do it—To what Purpose should the Act of Union say, what shall be subject to the Regulations of the Parliament of Britain, if all was subjected?—And why is it said, that this or that Thing shall after the Union, and notwithstanding thereof, so and so remain, if the Parliament of Britain could alter it?—Nay, let me add, to what Purpose was the Act and Articles of Union themselves, if the Parliament of Britain could disannul them—Here lies the universal Answer to all the Objectors against the Union; your Church, your Religion, your Laws, your Privileges articled for in the Union are inviolable; to say you may be voted out of them, is Nonsense, the Parliament cannot touch them; they cannot, and it is my Opinion, they dare not; and let no Man think me too free with Parliaments, or too bold on this Head. I have so often alledg'd it to the good People in Scotland, when I was persuading them to be easie, and acquiesce in the Securities of the Treaty, while it was transacting there, that I should think I had abus'd them and betray'd them, if I should be afraid to repeat it now—I therefore say it freely, and am ready to suffer the worst State-Martyrdom in Defence of it, and in Behalf of the Liberties of Scotland, as well Ecclesiastick as Civil—That it is my profess'd Opinion, that whenever

whenever a Parliament of *Britain* shall rescind, disannul, or make void one Article of the Treaty of Union, they destroy, rescind, disannul, and make void their own Constitution, are Traytors to the Power, that *humanly speaking* created them, and ceases to be a legally assembled Convention—— That all the Acts, they shall do afterwards, are void in their Nature, and that they have no more Power to act as a Parliament, since that Treaty, by which the very Name and Essence of *BRITISH* is added to the Thing *Parliament*; is destroy'd—— Thus much for the Power the Parliament has not.

But to return to the Power the Parliament really has—— All the Power, the *British* Parliament has, is stipulated for in, and derives in Respect of its being a *British* Parliament from, the Articles of the Union. —And this Power now exerted by the Parliament, in the Alterations made in the Laws for, or Trials of Persons accus'd of Treason, is expressly stipulated for, and given to the Parliament by the said Treaty of Union.

Article XVIII.

—*All other Laws in Use within the Kingdom of Scotland do after the Union, and notwithstanding thereof remain in the same Force as before, (except such as are contrary to or inconsistent with the Terms of this Treaty) but alterable by the Parliament of Great Britain, with this Difference betwixt the Laws concerning publick Right, Policy, and Civil Government, and those which concern private Right, that the Laws which concern publick Right, Policy, and Civil Government may be made the same throughout the whole united Kingdom, but that no Alteration be made in Laws which concern private Right, except for evident Utility of the Subject within Scotland.*

This is so plain, I think, it needs no Comment; the Laws which concern publick Right, Policy, and Civil Government may be made the same throughout the whole united Kingdom—— Here is no Question at all, but that the Laws for punishing

Treason concern Civil Government—— Nor is it sufficient to say, that the Forfeitures and Penalties relate to private Right, for so does all the Sentences of the publick Laws—— But the whole Law and every Branch of it concerns Policy and Civil Government, and therefore it seems clear, the Parliament of *Britain* has Power given it by the Treaty (for otherwise it has no Power) to make them the same throughout the whole united Kingdom.

Thus the present Case is plainly clear'd up, at least I think so, from being the least Invasion of the Treaty, and with that Pretension, I hope, will fall to the Ground all the Fears and Suggestions, that the Parliament of *Britain* will encroach upon, and overthrow the Securities provided for, to *Scotland*, by the Union—— I may be allow'd to say, the Parliament cannot do what they cannot legally do; and I am bold also to say, without any Spirit of Prophecie, the Parliament **WILL NOT**; They will not attempt to destroy themselves, they will not tacitly blow up their own Constitution, they will not declare themselves a Mob, a riotous illegal Assembly, they will not make their Powers of acting, *Ipso Facto*, **VOID**, as I **THINK** they must do, whenever they make an Act to make void one Article of the Union.

Nor can there be Danger of this from the Number of Representatives being more or less, for this Part or that—— In private Cases where their undoubted Power extends, they may run down or run up one another, and this or that Interest may be out-voted. But when you come to debate Essentials, Articles essential to their own Being, the Vitals and Spirit of the House, the Foundations of their Constitution, then all Parties are alike concern'd; there is no Part more interested than another, since the Question would presently change, from **SHALL WE** do thus or thus, to **CAN WE** do so?

Thus, should any Man offer to move, that the Religion of *Scotland* should be made the same, or that the Establish'd Church-Government should be the same throughout the whole united Kingdom—— And this is not material to state, if it were only